

19.09.2023
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allowed

CRM(DB) No. 3649 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Shibpur Police Station Case No. 207 of 2023 dated 12.06.2023 under Sections 498A/313/376/34 of the Indian Penal Code.

And

In Re : Sanjay Kumar Ray @ Sanjay Ray & Anr. petitioners

Mr. Swapan Kumar Nandi
Mr. Niladri Sekhar Ghosh
Mr. Sizan Nandi
Mr. Sourav Mondal

....for the petitioners

Mr. Bidyut Kumar Roy
Ms. Sima Biswas

.... for the State

1. Learned Counsel for the petitioners submits they are in custody for 68 days. It is also submitted that allegations of rape and miscarriage are out and out false. Miscarriage occurred in 2016 and no specific date with regard to commission of rape had been given. Petitioners have been falsely implicated owing to matrimonial discord between petitioner no. 1/husband and the victim. They pray for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner no. 1/husband and other in-laws had ill treated the wife. She suffered miscarriage. Petitioner no. 2 (nephew in law of the victim housewife) and his father committed rape.

3. We have considered the materials on record. Allegation of miscarriage occurred in 2016. No explanation is forthcoming why FIR was registered in 2023. No specific date with regard to commission of rape is also reflected in the FIR. Possibility of false implication owing to matrimonial discord cannot be ruled out. Under such circumstances, we are inclined to grant bail to the petitioners.

4. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah, subject to conditions that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Ajoy Kumar Mukherjee, J.)

(Joymalya Bagchi, J.)